

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 1618

INTRODUCER: Senator Brandes

SUBJECT: Chauffeured Limousines

DATE: March 31, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Pre-meeting
2.			CA	

I. Summary:

SB 1618 preempts the licensure and regulation of chauffeured limousines, chauffeured limousine services, and drivers of chauffeured limousines to the state. The bill creates the “Chauffeured Limousines and Services Safety Act,” providing a regulatory framework for the operation of chauffeured limousines. More specifically, the bill provides for:

- Definitions and legislative intent.
- Rules of operation for chauffeured limousine services.
- Vehicle standards.
- Requirements for chauffeured limousine drivers.
- Compliance reviews, penalties, appeal, and disposition of such penalties.
- Authorization of the Department of Highway Safety & Motor Vehicles (DHSMV) to adopt or revise rules to implement and administer the Act.

The bill also revises proof of insurance requirements for owners or operators of chauffeured limousines and chauffeured limousine services.

II. Present Situation:

Current State Law

Local Regulation

Local governmental entities primarily control regulation of for-hire vehicles in Florida. The legislative and governing body of a county is granted the authority to license and regulate taxis, jitneys, limousines for hire,¹ rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county.² “For-hire vehicle” is currently defined to mean:

¹ Because limousines are not commercial motor vehicles as defined in s. 320.01(25), F.S., drivers operating a limousine are not required to have a commercial driver license.

² Section 125.01(1)(n), F.S.

Any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a “share-expense” basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is “for hire.” The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for hire.”³

Insurance Requirements

An owner or lessee who operates one or more taxicabs, jitneys, or any other for-hire passenger transportation vehicles excluding limousines may prove financial responsibility by holding a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, up to \$250,000 per person for bodily injury, and \$50,000 for property damage.⁴

An owner or lessee required to maintain insurance under s. 324.021(9)(b), F.S., and who operates limousines, jitneys, or any other for-hire passenger vehicle other than taxicabs may prove financial responsibility by holding a motor vehicle liability policy with minimum limits of \$100,000/\$300,000/\$50,000.^{5,6}

Compliance with Requirements of Chapter 316, F.S.

Generally, the DHSMV through its Division of Florida Highway Patrol, local police departments, and local sheriff departments have jurisdiction to enforce the provisions of ch. 316, relating to traffic control, rules of vehicle operation, and vehicle safety requirements, etc.⁷

Personnel of the DHSMV are authorized to conduct motor carrier and shipper compliance reviews pursuant to s. 316.302(5), F.S., for the purpose of determining compliance of commercial motor vehicles with a variety of requirements, including without limitation, federal rules and regulations, hazardous materials requirements, hours of service provisions, alcohol and controlled substance testing, and records requirements.

“These reviews will be conducted at the motor carrier’s principal place of business to determine general compliance with the regulations as well as the record keeping requirements. Such reviews include, but are not limited

³ Section 320.01(15)(a), F.S.

⁴ Section 324.032(1)(a), F.S.

⁵ Section 324.032(1)(b), F.S. *See also* s. 324.021(9)(b), F.S.

⁶ Section 324.032(2), F.S., authorizes an owner or lessee required to maintain insurance under s. 324.021(9)(b), F.S., and who operates at least 300 taxicabs, limousines, jitneys, or any other for-hire passenger vehicles to prove financial responsibility through self-insurance as provided by s. 324.171, F.S.

⁷ *See* s. 316.640, F.S.

to, driver qualification files, vehicle maintenance records, and controlled substance and alcohol testing requirements. Violations found during these reviews may result in civil penalties being assessed.”⁸

III. Effect of Proposed Changes:

Generally, SB 1618 preempts the licensure and regulation of chauffeured limousines, chauffeured limousine services, and drivers of chauffeured limousines to the state. The bill creates the “Chauffeured Limousines and Services Safety Act,” consisting of ss. 316.90-316.907, F.S., and providing a regulatory framework for the operation of chauffeured limousines in this state.

Preemption of Regulation

The bill provides, notwithstanding any provision of s. 125.01, F.S., the legislative and governing body of a county does not have the power to license or regulate chauffeured limousines, chauffeured limousine services, and drivers of chauffeured limousines, as defined in s. 316.901, F.S. The licensure and regulation thereof is specifically preempted to the state.

Definitions

The bill creates s. 316.901, F.S., to define the following terms for purposes of the Act:

- “Advance reservation” means a reservation made in advance by a person requesting the use of a chauffeured limousine for transportation of a passenger or passengers for a specified period of time, or from and to a specific location.
- “Chauffeured limousine” means a chauffeured, non-metered motor vehicle with four or more doors, designed to carry fewer than nine passengers excluding the chauffeur, and operated for hire pursuant to an advance reservation, the fare for which is calculated on the basis of time and distance, except for trips to airports or other point-to-point trips based on well-traveled routes or for event-related trips such as sporting events, which may be charged on a flat-fee basis. The term does not include a taxicab, a vehicle used for not-for-profit, tax-exempt operations, or a vehicle used for transportation of persons between home and work locations or of persons having a common work-related trip when ridesharing is incidental to another purpose of the driver.
- “Chauffeured limousine service” means any business that provides chauffeured limousines by advance reservation.
- “Department” means the DHSMV.

Legislative Intent

The bill creates s. 316.902, F.S., to reflect the Legislative finding that the emerging field of transportation technology is a statewide concern. The bill declares the Legislative intent to provide a uniform statewide level of regulation of emerging transportation technology to provide stability and predictability to businesses seeking to implement such technology, to provide convenience and safety to the traveling public, and to enhance personal mobility. Regulation of chauffeured limousines, chauffeured limousine services, and chauffeured limousine drivers is

⁸ Florida Highway Patrol, *Commercial Motor Vehicle Manual*, Eighth Edition, April 2013, at p. 33, available at: <http://www.flhsmv.gov/fhp/CVE/> (Last visited March 28, 2014.)

preempted to the state, and further regulation thereof by a county, a municipality, or any other political subdivision of the state is void.

Chauffeured Limousine Service Rules of Operation

The bill creates s. 316.903, F.S., to require a chauffeured limousine service, before engaging in business in this state and at all times thereafter, to establish and maintain:

- A publicly listed telephone number identifying the business name and actual physical address for the purpose of receiving telephone calls related to the chauffeured limousine service.
- A website that provides:
 - The telephone number and actual physical address of the business.
 - Specific information regarding the method of fare calculation and the rates and fees charged by the chauffeured limousine service.
 - A mechanism for passengers of the chauffeured limousine service to file complaints regarding the service through the website.
- A zero-tolerance intoxicating substance policy for drivers of chauffeured limousines.
- A central records repository located in this state for the maintenance of records required by the department. A chauffeured limousine service must make such records available for inspection to the department for the purpose of establishing compliance with this Act.

In addition, a chauffeured limousine service is required to:

- Employ only drivers that meet the requirements of the Act.
- Prior to a driver's employment, obtain at least one year of the driver's driving history and check the record quarterly thereafter to ensure no disqualifying violations specified in the Act have occurred.
- Immediately suspend any driver:
 - Who receives a disqualifying violation on the driver's driving record until such time as the driver's compliance is reestablished.
 - Who is reported by a person who reasonably suspects the driver was under the influence of alcohol or drugs during the course of a passenger's trip, pending an investigation of the report.
- Ensure that valid background-screening certificates of the driver and the insurer certificates of the chauffeured limousine are displayed inside the chauffeured limousine so the certificates are plainly visible to the passengers.
- Provide to the driver a waybill for each ride that includes the driver's name, motor vehicle license plate number, and the time and date of the advance reservation.
- Provide each customer a paper or electronic receipt that lists the origination and destination of the trip, the total distance and time of the trip, and a breakdown of the total fare paid, including fees and gratuity, if any.

A chauffeured limousine service is prohibited from unlawfully discriminating against passengers or potential passengers based upon the geographic beginning point or end point of the ride.

If, in the interim between background screenings of a driver or between issuance and renewal of insurance as required under s. 316.905, F.S., an event occurs that renders the driver or the chauffeured limousine out of compliance with the standards in this Act, the driver or the vehicle, or both, as appropriate, are disqualified from providing chauffeured limousine services. The

chauffeured limousine service is prohibited from using the driver or the vehicle until such time as compliance is reestablished in accordance with the Act.

Further, a chauffeured limousine service must annually provide a report to the DHSMV that includes:

- The number of rides requested and accepted by drivers within each zip code where the service operates in the state;
- The number of driver violations and suspensions, including a list of complaints of driver alcohol or drug intoxication and the outcome of investigations into those complaints; and
- A listing of each accident or other incident that involved a chauffeured limousine service's driver, including the date, time, and cause of the incident, and the amounts paid, if any, by the driver's insurance and the service's insurance.

Vehicle Standards

The bill creates s. 316.904, F.S., to provide that a chauffeured limousine may not be older than five model years of age when initially placed into service by a chauffeured limousine service and must be taken out of service at 10 model years of age. If a chauffeured limousine is taken out of service for more than 30 calendar days after its initial placement into service, the chauffeured limousine is no longer a previously in-service vehicle.

Driver Requirements

The bill creates s. 316.905, F.S., requiring a driver for a chauffeured limousine service to:

- Possess a valid driver license issued in this state or any other state which has been active for at least five years.
- Hold a motor vehicle liability policy in accordance with ss. 324.031 or s. 324.032, F.S., if the driver owns or leases the chauffeured limousine, or be in possession of such proof provided by the owner or lessee of the chauffeured limousine.
- Successfully complete a level one background screening under s. 435.03, F.S., conducted by the Department of Law Enforcement (FDLE).
 - The screening must include a statewide criminal correspondence check through the FDLE; a check of the Dru Sjodin National Sex Offender Public Website; a local criminal records check through local law enforcement agencies; and a check of the driver's driving record to ensure the driver has no conviction or an arrest awaiting final disposition for driving under the influence of alcohol, chemical substances, or controlled substances in violation of chapter 316, F.S., in addition to any offense prohibited under s. 435.04(2), F.S., or similar law of another jurisdiction.
 - The driver must be rescreened annually following the date of his or her most recent background screening.
 - Upon receipt of payment of the appropriate fee, the FDLE must conduct the screenings required by this paragraph. The FDLE must issue a certificate or renewed certificate, as applicable, to any driver found to be in compliance with the screening standards specified in this paragraph. Each certificate is valid for 14 months and must contain a unique identification number associated with the driver.
- Ensure that the valid background-screening certificates and insurer certificates are displayed inside the chauffeured limousine and are plainly visible to the passengers.

- Ensure that all chauffeured limousine passenger trips are arranged only through advance registration. The driver of a chauffeured limousine may not accept or solicit street hails.
- Provide a monthly affidavit to the chauffeured limousine service attesting to continued compliance with the Act's driver requirements and standards.

At all times while operating a chauffeured limousine, the driver must have in his or her possession:

- A valid driver license;
- Proof of insurance that meets the requirements of ss. 324.031 or 324.032, F.S.;
- A valid background screening certificate issued under s. 316.905, F.S., of the act;
- A valid certificate issued by the motor vehicle insurer attesting to the vehicle's compliance with the safety equipment standards of chapter 316, F.S., and any other applicable requirements on the date of issuance or renewal of the motor vehicle liability policy; and
- A waybill for each ride which includes the driver's name, vehicle license plate number, and the time and date of the advance reservation, which the driver is required to produce upon request of any law enforcement officer.

If, in the interim between background screenings or between issuance and renewal of insurance as required by this section, an event occurs that renders the driver noncompliant with the standards in the Act, the driver must report the event to the chauffeured limousine service and is prohibited from operating any chauffeured limousine until such time as the driver meets the requirements of the Act. A driver that meets the requirements may not operate a chauffeured limousine for passenger trips of the chauffeured limousine service if the limousine does not meet the Act's vehicle standards until such time as the limousine's compliance is reestablished.

Chauffeured Limousine Service Compliance Reviews and Noncompliance Penalties

The bill creates s. 316.906, F.S., to authorize the DHSMV to conduct reviews and inspections of chauffeured limousine services for the purpose of determining compliance with the Act. In addition to penalties provided in chs. 316, 318, 319, 320, 322, and 324, F.S., the DHSMV is authorized to impose the following penalties:

- A civil penalty of \$1,000 for violations identified in an initial compliance review or inspection;
- A civil penalty of \$2,500 for violations found in a follow up compliance review or inspection conducted within six months after a previous compliance review or inspection where violations were identified; and
- A civil penalty of \$5,000 for violations found in a follow up compliance review or inspection conducted within 12 months after a previous compliance review or inspection where violations were identified.

All civil penalties imposed and collected must be paid to the Chief Financial Officer, who must credit the total amount collected to the State Transportation Disadvantaged Trust Fund for use as provided in s. 427.0159, F.S. A chauffeured limousine service aggrieved by the imposition of a civil penalty under this section may apply to the Commercial Motor Vehicle Review Board for a modification, cancellation, or revocation of the penalty. Such appeal proceedings must be conducted in accordance with ch. 120, F.S.

Financial Responsibility

The bill creates s. 324.031(2), F.S., to provide that the owner or operator of a chauffeured limousine, as defined in s. 316.901, F.S., may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, with minimum limits of \$500,000 per person for bodily injury, up to \$1,000,000 per incident for bodily injury, and \$50,000 for property damage. A chauffeured limousine service, as defined in s. 316.901, F.S., may prove financial responsibility by furnishing satisfactory evidence of holding a non-owned motor vehicle liability policy with minimum limits of \$500,000 combined single limits.

The bill further creates ss. 324.032(1)(c-d), F.S., to provide that a person who is the owner or a lessee required to maintain insurance under s. 324.021(9)(b), F.S., and who operates a chauffeured limousine, as defined in s. 316.901, may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, but with minimum in excess of limits of \$500,000 per person for bodily injury, up to \$1,000,000 per incident for bodily injury, and \$50,000 for property damage.

A chauffeured limousine service, as defined in s. 316.901, F.S., may prove financial responsibility by furnishing satisfactory evidence of holding a non-owned motor vehicle liability policy with minimum limits of \$500,000 combined single limits.

Rulemaking

The bill creates s. 316.907, F.S., to provide that DHSMV may adopt or revise rules to implement and administer the Chauffeured Limousines and Services Safety Act.

The bill also amends ss. 324.023, 324.151, and 627.733, F.S., to correct cross-references necessitated by other changes in the bill.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Fee revenues related to local regulation of chauffeured limousine services and drivers may decrease, to the extent that such services and drivers are currently licensed to operate in any given local jurisdiction. A corresponding decrease in local government expenditures relating to the regulation of chauffeured limousine services and drivers would also be expected. The net result is an insignificant impact to local governments. Therefore, the bill appears to be exempt from the mandates provision.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will provide a uniform statewide level of regulation of emerging transportation technology, specifically chauffeured limousines, to provide stability and predictability to businesses seeking to implement such technology, to provide convenience and safety to the traveling public, and to enhance personal mobility.

The employer or the employee is responsible for payment of the required level one background screening under s. 435.03, F.S. Payment must be submitted to the FDLE with the request for screening. The current cost for a state record check is \$24.⁹

C. Government Sector Impact:

The DHSMV notes that 1,625 limousines were registered in Fiscal Year 2012-2013. Of the total, 1,523 could potentially meet the definition of “chauffeured limousine.” The bill leaves the determination as to when to conduct compliance reviews to the discretion of the DHSMV and primarily requires a records check. Physical inspection of the vehicles by the DHSMV is not required. According to the DHSMV, the expected fiscal impact is as follows:

	Year 1	Year 2	Year 3
	<u>FY 14-15</u>	<u>FY 15-16</u>	<u>FY 16-17</u>
Salaries/Benefits	\$570,807	\$570,807	\$570,807
Expenses	119,316	40,129	40,129
HR Services	<u>4,128</u>	<u>4,128</u>	<u>4,128</u>
Total	<u>\$694,251</u>	<u>\$615,064</u>	<u>\$615,064</u>

The above provides for 12 positions to provide a new program area to implement the provisions of this bill.¹⁰

The FDLE, to the extent that individuals apply to become drivers for chauffeured limousine services, will see an increase in fee revenues associated with performing the required level one background screening. In addition, driver’s certificates declaring them to be in compliance with the screening standards must be renewed every 14 months to remain eligible to operate any chauffeured limousine.

To the extent that chauffeured limousine services are charged with civil penalties for non-compliance with the Act, the Transportation Disadvantaged Trust Fund will see an increase in revenues.

⁹ The FDLE Agency Analysis for SB 1618 at 3. On filed in the Senate Transportation Committee.

¹⁰ *Id.* at 8.

An increase in expenditures related to the administration of the Commercial Motor Vehicle Review Board may result, to the extent that the imposition of the civil penalties is appealed. Such expenditures are expected to be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.01, 324.031, and 324.032.

This bill amends the following sections of the Florida Statutes: 324.023, 324.151, and 627.733.

This bill creates the following sections of the Florida Statutes: 316.90, 316.901, 316.902, 316.903, 316.904, 316.905, 316.906, and 316.907.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.